REMARKS/ARGUMENTS

After the foregoing Amendment, claims 1-5, 12-16 and 32-36 are currently pending in this application. Claims 1, 12 and 35 are amended.

Claim Rejections - 35 USC §102 and §103

Claims 1, 12 and 32 are rejected under 35 U.S.C. 102(e) being anticipated by admitted art. Claims 2-3, 13-14 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0142698 ("Bergel"). Claims 4, 15 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergel and further in view of U.S. Publication No. 2003/0129992 ("Koorapaty"). Again, Applicants respectfully disagree.

As the basis of the Examiner's finding, the Examiner has expanded the interpretation of the explicit language of the specification to include the derivation of a future predictive channel quality indication, which estimates future quality of the downlink data channel, based on Applicant's words used in the background. The language used in the background section of Applicant's specification reads as follows:

> Regardless of whether or not the communication system is a 3GPP system, the CQI could represent a recommended Transport Block Size, modulation format, number of codes, power-offsets, or any one of a number of different types of link adaptation parameters. These CQIs are

> derived by a receiver and signaled to a transmitter to set the transmission parameters for a subsequent transmission.
>
> The CQI typically provides either specific link adaptation information, such as a recommended coding and modulation scheme for the AMC function, or provides one or more general quality indicators which are subsequently used to base the selection of appropriate transmission parameters.

Paragraphs [0009] – [0010] of Applicant's Specification

It is clear from the above language that the admitted art in Applicant's specification derives a **current** CQI. The term "would" does not relate to a predictive CQI. As clearly indicated in paragraphs [0011] and [0012], the admitted art method calculates only the CQI based solely on the determination of the current channel conditions. In order to understand what is actually being admitted as art, Applicant directs the Examiner's attention to paragraphs [0011] through [0013] of Applicant's specification. Paragraphs [0011] through [0013] read in part:

> There are drawbacks with the current method of providing CQI feedback. For example, the current 3GPP specification does not set a specific time limit on how long the UE may take to derive the CQI...
>
> After the measurements are performed, the CQI is calculated; this is shown at time T1. Although the delay is minimized by reporting this CQI to the Node B at the next available UL transmission (shown at time T2), there is additional delay until the subsequent use by the Node B of the CQI...

> The delay... between the completion of the measurements upon which the CQI is based... and the subsequent use by the Node B to set the associated transmission parameters at... results in a CQI that is not accurate by the time it is used by the Node B.

Paragraphs [0011] – [0013] of Applicant's Specification

This portion of the Applicant's specification clearly distinguishes between the current CQI that is calculated using a determination of the current channel condition in the admitted art and Applicant's predictive CQI using a predicted future channel condition that is claimed in claims 1, 12 and 32.

As stated in Applicant's previous response to the Office Action, the disclosed method derives a predictive channel quality indication, which estimates future quality of the downlink data channel, an element that is not suggested or taught by the art set forth in Applicant's background section. Accordingly, claims 1, 12 and 32 is not anticipated by the art disclosed in the background section of Applicant's specification.

Moreover, the Examiner seems to ignore what is actually claimed in claims 1, 12 and 32. The art disclosed in Applicant's background, derives the current quality of the channel which is an element of Applicant's claim 1, which reads:

> Performing at said receiver at least one current quality measurement on said downlink data communication to determine the current quality of said downlink data channel.

Therefore, in order for the Examiner's interpretation of Applicant's admitted art to anticipate claim 1, the step of deriving, based on the performing step, a predictive channel quality indication (CQI), estimating the future quality of said downlink channel "would have to be eliminated or interpreted as redundant. Applicant is not simply claiming the derivation of a CQI based on the calculation of the current channel conditions to be used by the Node B to set the transmission parameters.

Neither Bergel, Koorapaty et al., nor Vruckert et al., discloses the derivation of a predictive channel quality indication estimating the future quality of the downlink data channel and transmitting this predictive CQI to the transmitter.

Claims 2 – 5, 13 – 16 and 33 – 36 are dependent upon claims 1, 12 and 32, and the Applicants believe these claims are allowable over the cited references of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the §102 rejection of claims 1, 12 and 32 is respectfully requested.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this

application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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